

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5537 of 1995

For Approval and Signature:

Hon'ble MS.JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements ? YES
2. To be referred to the Reporter or not ? YES
3. Whether Their Lordships wish to see the fair copy of the judgement ? NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder ?NO
5. Whether it is to be circulated to the Civil Judge ? NO

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GUJARAT MEDICAL TEACHER'S ASSOCIATION

Versus

STATE OF GUJARAT

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Appearance:

MS ANU S VERMA for Petitioner

SERVED for Respondent No. 1

SERVED BY RPAD for Respondent No. 2

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CORAM : MS.JUSTICE R.M.DOSHIT

Date of decision: 19/08/97

ORAL JUDGEMENT

1. Petitioner before this Court is Association of the Medical teachers serving under the State of Gujarat, respondent No.1 herein. The petitioner claims that its members, the medical teachers, are suffering injustice at the hands of the State Government, inasmuch as, though they are teachers teaching technical courses in the

Medical Colleges, they have not been offered same pay scales as the teachers teaching technical courses in Engineering Colleges. A comparative table has been drawn in paragraph 5 of the petition. The teachers in the Engineering Colleges have been placed in different pay scales ranging from Rs.2200-4000/- to Rs.6300-7300/-. The petitioner claims that the disparity which has arisen ex-facie is uncalled for and the teachers in Medical Colleges shall be granted the same benefits as are granted to the teachers in Engineering Colleges.

2. Ms. Shah, learned counsel appearing for the petitioner, has submitted that unlike the teachers in the Engineering Colleges, the teachers in the Medical Colleges have to perform clinical duties over and above their normal teaching duties and they also have to attend to emergency cases. She has relied upon the Government of India communication dated 28th February, 1989 (Annexure-A to the petition), which is issued in respect of revision of pay scales of teachers in Engineering Colleges and other degree level technical institutions including Architectural, Town Planning, Managements, Pharmacy, and Applied Arts and Crafts institutions. She has submitted that the above referred courses being technical courses, the said communication should also necessarily govern teachers in the Medical Colleges. The said communication is based on the recommendations made by Dogra Commission constituted under the Chairmanship of Prof. R.N. Dogra to make recommendations in respect of revision of salary structure, qualifications and conditions of service of teachers of technical institutions. Under the said recommendations, inter alia, the teachers in the technical education institutions where merit promotion scheme is in operation have been placed in different pay scales ranging from Rs.2200-4000/- to Rs.4500-5700/-. A provision has also been made for career advancement, inasmuch as, a lecturer after completion of 8 years' regular service and on fulfilling the conditions prescribed therein becomes entitled to the Senior Scale of Rs.3000-5000/-. A lecturer would be entitled to a still higher grade known as Selection Grade in the scale of Rs.3700-5700/- after completion of 8 years service in the Senior Scale. A statement showing different scales admissible to teachers in various technical institutions is annexed to the petition at page 25.

3. Under Government notification dated 20th March, 1991, the Gujarat Civil Services (Revision of Pay) Rules, 1987 are amended and the amended rules have been given effect to from 1st January, 1986. Under the amended

rules, the Dean of Medical College/Medical Superintendent is placed in the scale of Rs.6300-7300/-. The Professor is placed in the scale of Rs.4500-7300/ which is equivalent to the scale admissible to the Professor in the Engineering College. The Associate Professor is placed in the scale of Rs.3700-5700, which is equivalent to the scale prescribed for Assistant Professors and the Selection Grade granted to the lecturers in Engineering Colleges. The pay scale admissible to the Assistant Professor, i.e. Rs.3000-5000 is equivalent to the Senior Scale admissible to the lecturers in Engineering Colleges. In support of her claim, Ms. Shah has relied upon the judgment of the Supreme Court in the matter of Indian Council of Agricultural Research v. A.N. Laheri [Judgment Today 1997(5) Supreme Court 18]. The Court on facts held that the Scientists working as Head of Department were doing the same type of work as Scientists belonging to Agricultural Research Service and upheld their claim for parity of pay on the principle of equal pay for equal work. She has next relied upon the judgment of the Supreme Court in the matter of State of Himachal Pradesh v. H.P. State Recognized and Aided Schools' Managing Committees and Others [(1995) 4 SCC 509]. The Court held that the teachers employed in recognized and aided private schools were entitled to parity in pay and allowances with their counterparts in Government schools.

4. The pay structure of employees in various Government Departments is generally based on the nature of duties to be performed by such employees; the source of recruitment; the qualifications required to be possessed by such employees; the nature of establishment; promotional avenues; etc. Ms. Shah has relied upon the Government of India communication dated 28th February, 1989. Said communication contains recommendations made by the Government of India. The question is whether the said recommendations are accepted by the State Government or not. Ms. Shah has not produced any material on record to establish that the said recommendations are in fact accepted by the State Government and the pay scales referred to therein are made applicable to the teachers in Engineering Colleges and the other technical institutions. The learned Additional Government Pleader Mr. Bambhania has placed on the records of the matter a Government Resolution dated 18th August, 1989. Said resolution is taken on records of the matter. Said resolution has been issued in respect of the revision of pay of the teachers in engineering colleges and the other degree level technical institutions. Under the said resolution, the Government has revised the pay scales of

the teachers in the engineering colleges and other degree level institutions including the Architectural Town Planning, Management, Pharmacy and Applied Arts and Crafts pursuant to the above referred Government of India communication dated 28th February, 1989. It appears that the pay scales recommended under the Government of India communication have not been accepted in toto by the Government of Gujarat. The pay scales accepted and applied to by the Government of Gujarat are referred to in Annexure-I to the said Resolution. The pay scales accepted by the State of Gujarat and given effect from 1st January, 1986 are as under and the pay scales applied to medical teachers are as under :-

Engineering Colleges		Medical Colleges	
Lecturer	2200-4000	Lecturers	2200-4000
Lecturer		Assistant	
(Sr. Scale)	3000-5000	Professor	3000-5000
Lecturer	Associate		
(Select. Grade)	3700-5700	Professor	3700-5700
&			
Asstt. Professor			
Professor	4500-7300	Professor	4500-7300
Principal	4500-7300	Dean	6300-7300
Plus Special Pay			
of Rs.300/- per			
month.			

I do not find any disparity in the pay structure of the teachers in the Engineering Colleges and the Medical Colleges. The claim for the Senior Scale and the Selection Grade is, therefore, unwarranted. The petition is, therefore, dismissed. Rule is discharged. There shall be no order as to costs.

5. I regret to note that, though the petition was admitted to final hearing in the month of April 1996 and was set for final hearing in the month of September 1996, till today, nearly one year after the date set for final hearing, the Government has chosen not to defend this petition. In spite of several adjournments granted to the Government, neither the Government has filed any counter affidavit nor there has been any effective representation on behalf of the Government.

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